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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

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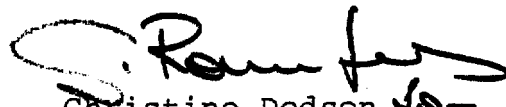
January 23, 1979

MEMORANDUM FOR

THE SECRETARY OF STATE
THE SECRETARY OF THE TREASURY
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
THE SECRETARY OF COMMERCE
THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET
CHAIRMAN, JOINT CHIEFS OF STAFF
DIRECTOR OF CENTRAL INTELLIGENCE

SUBJECT: Agenda for SCC Ad Hoc Group Meeting on China
January 24, 1979 - 10:00 a.m.
White House Situation Room (C)

I am attaching for your information the proposed agenda
for above meeting.


Christine Dodson
Staff Secretary

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Declassify on January 24, 1979
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NSC REVIEW COMPLETED, 6/26/03

State Dept. review completed

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PROPOSED AGENDA FOR SCC AD HOC GROUP
ON
CHINA'S MEETING
OF
JANUARY 24, 1979

- I. Withdrawal of DOD Civilians from Taiwan. (C)
(Basis of discussion is ASD/ISA memorandum, Jan 10, 1979.) (U)
- II. Ship Visits, Training, and Military Exercises. (U)
(Basis of discussion is issue paper.) (U)
-- Ship Visits (U)
-- Technical and Professional Training (U)
-- Mobile Training Teams (U)
-- Military Exercises (U)
- III. Additional DOD Issues. (U)
(Basis of discussion is ASD/ISA memorandum, Jan 9, 1979.) (U)
-- Provision of Spare Parts and Replacement Items. (U)
-- Equipment Provided Under the Military Assistance Program. (U)
-- Travel by Military Personnel to Taiwan. (U)

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Review on
January 22, 1985

File SCC
Ad Hoc
Group
mtgs.

SCC Agenda

1. Deng Visit Update
2. Christopher Mission Follow-up
 - (a) Update
 1. Status of negotiations with Taiwan
 2. Legislative package - Congressional strategy
 3. Goldwater suit
 - (b) Decisions we need
 1. Privileges and Immunities - What can and should we offer short of diplomatic status?
 2. Size, composition, and function of AIT Taipei
 - (a) about 50 (65 now) with 5 in Kapsuing?
 - (b) military links? DAO, MAAG, coordination with CINCPAC, military intelligence relationships?
 3. Omnibus Bill
3. Contingencies
 - (a) If reprogramming of funds to support AIT is delayed.
 - (b) If Taiwan does not allow AIT to operate.
 - (c) If we get (a) and (b) but legislation indefinitely delayed.

A BILL

To promote the foreign policy of the United States through the maintenance of commercial, cultural and other relations with the people on Taiwan on an unofficial basis, and for other purposes.

1 Be it enacted by the Senate and House of
2 Representatives of the United States of America
3 in Congress assembled,

4 TITLE I

5 SECTION 101. No requirement for maintenance
6 of diplomatic relations with the United States,
7 or for recognition of a government by the United
8 States, as a condition of eligibility for partic-
9 ipation in programs, transactions or other rela-
10 tions authorized by or pursuant to United States
11 law shall apply with respect to the people on
12 Taiwan.

13 SEC. 102. Whenever any law, regulation or
14 order of the United States refers or relates to
15 a foreign country, nation, state, government or
16 similar entity, such terms shall include, and
17 such law, regulation or order shall apply with
18 respect to, the people on Taiwan.

- 2 -

1 SEC. 103. Whenever authorized or required by
2 or pursuant to United States law to conduct or
3 carry out programs, transactions or other relations
4 with respect to a foreign country, nation, state,
5 government or similar entity, the President
6 or any department or agency of the United States
7 Government is authorized to conduct and carry out
8 such programs, transactions and other relations with
9 respect to the people on Taiwan, in accordance with
10 applicable laws of the United States.

11 SEC. 104. Programs, transactions and other
12 relations conducted or carried out by the President
13 or any department or agency of the United States
14 Government with respect to the people on Taiwan
15 shall, as the President may direct, be conducted and
16 carried out by or through the American Institute in
17 Taiwan, a nonprofit corporation incorporated under
18 the laws of the District of Columbia (hereinafter
19 "the Institute").

20 SEC. 105. Whenever the President or any
21 department or agency of the United States Govern-
22 ment is authorized or required by or pursuant to
23 United States law to enter into, perform, enforce,
24 or have in force an agreement or arrangement rela-
25 tive to the people on Taiwan, such agreement or

- 3 -

1 arrangement shall be entered into, or performed
2 and enforced, as the President may direct, by or
3 through the Institute.

4 SEC. 106. Whenever the President or any
5 department or agency of the United States Govern-
6 ment is authorized or required by or pursuant to
7 United States law to render or provide to, or to
8 receive or accept from, the people on Taiwan any
9 performance, communication, assurance, undertaking
10 or other action, such action shall, as the Presi-
11 dent may direct, be rendered or provided to, or
12 received or accepted from, an instrumentality
13 established by the people on Taiwan.

14 SEC. 107. Whenever the application of a
15 rule of law of the United States depends upon
16 foreign law, or compliance with foreign law, the
17 law applied by the people on Taiwan shall be con-
18 sidered foreign law for that purpose.

19 TITLE II

20 SEC. 201. Any department or agency of the
21 United States Government is authorized to sell,
22 loan or lease property, including interests therein
23 to, and to perform administrative and technical
24 support functions and services for, the operations
25 of the Institute upon such terms and conditions as

- 4 -

1 the President may direct. Reimbursements to depart-
2 ments and agencies under this section shall be
3 credited to the current applicable appropriation of
4 the department or agency concerned.

5 SEC. 202. Any department or agency of the
6 United States Government is authorized to acquire
7 and accept services from the Institute upon such
8 terms and conditions as the President may direct,
9 without regard to the laws and regulations normal-
10 ly applicable to the acquisition of services by
11 such department or agency.

12 SEC. 203. Any department or agency of the
13 United States Government employing alien personnel
14 in Taiwan is authorized to transfer such personnel,
15 with accrued allowances, benefits and rights, to the
16 Institute without a break in service for purposes
17 of retirement and other benefits, including con-
18 tinued participation in any system established by
19 law or regulation for the retirement of employees,
20 under which such personnel were covered prior to
21 the transfer to the Institute: Provided, That
22 employee deductions and employer contributions, as
23 required, in payment for such participation for the
24 period of employment with the Institute, are cur-
25 rently deposited in the system's fund or depository.

- 5 -

1 SEC. 204. (a) Under such terms and condi-
2 tions as the President may direct, any department
3 or agency of the United States Government is
4 authorized to separate from Government service
5 for a specified period any employee of that
6 department or agency or, where appropriate, a
7 member of a uniformed service, who accepts em-
8 ployment with the Institute.

9 (b) An employee or member of a uniformed
10 service separated under subsection (a) of this
11 section shall be entitled upon termination of
12 such employment with the Institute to reemployment
13 with that department or agency or a successor
14 agency, or reinstatement in that uniformed service,
15 in an appropriate position with attendant rights
16 and benefits which the employee or member would
17 have had or acquired had he or she not been so
18 separated, subject to such time period and other
19 conditions as the President may prescribe.

20 (c) An employee or member of a uniformed
21 service entitled to reemployment or reinstatement
22 rights under subsection (b) of this section shall,
23 while continuously employed by the Institute with
24 no break in continuity of service, continue to
25 participate in any benefit program in which such

- 6 -

1 employee or member was covered prior to employment
2 by the Institute, including programs for compensation
3 for job-related death, injury or illness; for health
4 and life insurance; for annual, sick and other
5 statutory leave; for retirement under any system
6 established by law or regulation; and comparable
7 programs for members of the uniformed services:
8 Provided, That employee deductions and employer
9 contributions, as required, in payment for such
10 participation for the period of employment with
11 the Institute, are currently deposited in the pro-
12 gram's or system's fund or depository. Death or
13 retirement of any such employee or member during
14 approved service with the Institute and prior to
15 reemployment or reinstatement shall be considered
16 a death in service or retirement from the service
17 for the purposes of any employee, member or survi-
18 vor benefits acquired by reason of service with a
19 department or agency or uniformed service of the
20 United States Government.

21 (d) Any employee of a department or agency
22 of the United States Government who enters into
23 service with the Institute on approved leave of
24 absence without pay prior to the enactment of
25 this Act shall receive the benefits of this

- 7 -

1 title for the period of such service.

2 (e) A member of a uniformed service sepa-
3 rated for purpose of employment with the Institute,
4 shall not be required while so employed to lose or
5 otherwise forfeit any rights, benefits or privileges
6 to which entitled had such member remained on
7 active duty with the uniformed service concerned.
8 For a member of a uniformed service separated for
9 employment with the Institute, the tax treatment
10 of allowances paid to employees of the Institute
11 shall recognize and include the tax exempt status
12 of the service's pay and allowances system.

13 SEC. 205. The Institute shall be treated as
14 a tax exempt organization described in section 501
15 (c)(3) of the Internal Revenue Code, and shall not
16 be an agency or instrumentality of the United States.
17 Employees of the Institute shall not be employees of
18 the United States and, in representing the Institute,
19 shall be exempt from section 207 of title 18, United
20 States Code. The salaries and allowances paid to
21 employees of the Institute shall be treated in the
22 same way for tax purposes, under sections 911, 912
23 and 913 of the Internal Revenue Code, as salaries
24 and equivalent allowances paid by departments and
25 agencies of the United States Government.

- 8 -

1 TITLE III

2 SEC. 301. Any department or agency of the
3 United States Government may provide to the Insti-
4 tute funds made available to such department or
5 agency for any activity that is under the juris-
6 diction and authority of such department or agency,
7 within the limitations of available appropriations.

8 SEC. 302. There are authorized to be appro-
9 priated to the Secretary of State from time to time
10 such sums as may be necessary to carry out the
11 purposes of this Act. Such sums are authorized to
12 remain available until expended.

13 SEC. 303. The Secretary of State is author-
14 ized to use funds made available to carry out this
15 Act to further the maintenance of commercial, cul-
16 tural and other relations with the people on Taiwan
17 on an unofficial basis. The Secretary may provide
18 such funds to the Institute for expenses directly
19 related to the purposes of this Act, including --

- 20 (1) Payment of salaries and benefits to
21 Institute employees;
22 (2) Acquisition and maintenance of build-
23 ings and facilities necessary to the
24 conduct of Institute business;
25 (3) Maintenance of adequate security for

- 9 -

1 Institute employees and facilities;

2 and

3 (4) Such other expenses as may be neces-
4 sary for the effective functioning
5 of the Institute.

6 SEC. 304. Any department or agency of the
7 United States Government making funds available
8 to the Institute in accordance with this Act shall
9 make arrangements with the Institute for the
10 Comptroller General of the United States to have
11 access to the books and records of the Institute
12 and the opportunity to audit the operations of
13 the Institute.

14 SEC. 305 The programs, transactions and
15 other relations carried out by the President or
16 any department or agency of the United States
17 Government with respect to the people on Taiwan
18 since January 1, 1979, are approved and confirmed.

19 SEC. 306. The President is authorized to
20 prescribe such rules and regulations as he may deem
21 appropriate to carry out the purposes of this Act.

SECTION BY SECTION ANALYSIS OF THE PROPOSED ACT
TO PROMOTE THE FOREIGN POLICY OF THE UNITED STATES
THROUGH THE MAINTENANCE OF COMMERCIAL, CULTURAL AND
OTHER RELATIONS WITH THE PEOPLE ON TAIWAN ON AN
UNOFFICIAL BASIS, AND FOR OTHER PURPOSES

I. INTRODUCTION

The legislation (hereinafter "the Bill") is being proposed as the result of the recognition by the United States of the People's Republic of China as the sole legal government of China and the establishment of diplomatic relations between the United States and the People's Republic of China. Its purpose is to facilitate continuation of commercial, cultural and other relations between the American people and the people on Taiwan on an unofficial basis.

The Bill clarifies the application of laws of the United States to the people on Taiwan in light of the changed diplomatic situation, and provides for the continued conduct of programs and transactions with the people on Taiwan. It also contains a number of provisions on administrative, financial and related subjects which will facilitate this new non-governmental relationship with the people on Taiwan.

The term "people on Taiwan," as used in the Bill, reflects the non-existence of a government to government relationship, and encompasses both the authorities and the inhabitants on the islands of Taiwan and the Pescadores.

II. PROVISIONS OF THE BILL

Section 101

This section provides that legal requirements for the maintenance of diplomatic relations with the United States or recognition of a foreign government by the United States will not be a bar to eligibility of the people on Taiwan for participation in programs, transactions or other relations under U.S. law. This will avoid questions under provisions of law such as section 620(t) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(t)), which refers explicitly to severance of diplomatic relations. It is also intended to satisfy requirements for diplomatic relations with or recognition by the United States which might be implied by terms such as "friendly country" contained in various statutes.

Section 102

This section specifies that laws, regulations and orders which refer or relate to "foreign countries," or use similar terms, shall continue to include and apply

- 3 -

to the people on Taiwan. The President has directed the heads of all departments and agencies to construe such laws as continuing to apply to the people on Taiwan. This directive has facilitated maintenance of unofficial relations pending action by the Congress. This section is intended to confirm continued eligibility of the people on Taiwan under such important legislation as the Arms Export Control Act, Atomic Energy Act of 1954, the Export-Import Bank Act, the Foreign Assistance Act of 1961, the Mutual Educational and Cultural Exchange Act of 1961 and the Trade Act of 1974.

Section 103

This section expressly confirms the authority of the President and departments and agencies to carry out programs, transactions and other relations with the people on Taiwan under laws which provide for such programs, transactions and relations with respect to foreign countries.

Section 104

This section provides that programs, transactions and relations with respect to the people on Taiwan will be conducted by or through the American Institute in Taiwan, as directed by the President. This provision implements the President's statement of December 15, 1978 that the

- 4 -

American people and the people on Taiwan "will maintain commercial, cultural and other relations without official government representation..." The American Institute in Taiwan is a nonprofit corporation organized under the laws of the District of Columbia, which has been established for this purpose.

Section 105

This section provides for the performance and enforcement of existing agreements, and the making of new agreements, with the people on Taiwan by or through the Institute, to satisfy authorizations or requirements for agreements or arrangements with the people on Taiwan. If, for example, an agreement with a "foreign country" is a condition of eligibility for participation in a program, with respect to the people on Taiwan such a condition will be satisfied by an agreement entered into or performed through the Institute. This section applies not only to new agreements, but also to previous agreements, which remain in force unless terminated.

Section 106

This section provides for dealing with the people on Taiwan through an instrumentality acting on their behalf. It makes clear that provisions for dealing with a "foreign

- 5 -

government" will be satisfied with respect to the people on Taiwan by dealing with that instrumentality. Section 104 and 105 and this section provide for the conduct of nongovernmental relations through the Institute and the counterpart instrumentality of the people on Taiwan.

Section 107

This section provides that when the application of United States law depends upon foreign law, the law applied by the people on Taiwan shall be looked to for that purpose.

Section 201

This section authorizes departments and agencies to provide support for the Institute's internal operations through transfers of property and the performance of functions and services. This will provide access by the Institute to existing federal resources in order to reduce costs and increase the efficiency of operations. It is expected that such support usually will be provided on a reimbursable basis.

- 6 -

Section 202

This section authorizes departments and agencies to acquire and accept services from the Institute. Although the initial arrangements with the Institute are on a conventional contractual basis, this section authorizes the President to disregard normally applicable laws and regulations, such as limitations in procurement regulations, in order to permit the development of appropriate arrangements in these unique circumstances.

Section 203

This section authorizes the transfer to the Institute of alien employees of the U.S. Government and preserves their benefits under the local compensation plan applicable in Taiwan under section 444 of the Foreign Service Act of 1946, as amended (22 U.S.C. 889). It is expected that the Institute will adopt this plan for its alien employees. This section also authorizes the continued participation in U.S. Government retirement systems by those transferred alien employees who have heretofore been covered by such systems, subject to continued payment of contributions and deductions to the appropriate fund.

Section 204

This section, consisting of five subsections, provides authority for the separation of federal employees and members of the uniformed services for employment

- 7 -

with the Institute, preservation of their federal benefits, and reemployment or reinstatement rights in the federal service. It is contemplated that such separated federal personnel will make up the staff of the Institute.

Subsection (a) provides that an employee or member who accepts employment with the Institute may be separated from his or her agency or service.

Subsection (b) provides that an employee or member so separated is entitled, upon termination of employment with the Institute, to be reemployed or reinstated in the federal service. Normally, reinstatement for an employee in the classified service will be to the position from which the employee was separated. However, the President is authorized to determine the appropriateness of the position for reemployment or reinstatement. It is anticipated that, especially in personnel systems based on the rank in person concept, reemployment could be in a higher class.

Subsection (c) provides for continuity of federal benefits during service with the Institute, including compensation for job related death, illness or injury; health and life insurance, leave, and retirement. Contributions, where required, must be paid in order to preserve these benefits. This section also provides that death or retirement by such an employee or member while employed by the Institute shall be considered a death in or retirement from

- 8 -

the federal service for purposes of benefit entitlement.

Subsection (d) authorizes the extension of the benefits of Title II of the Bill to federal employees serving with the Institute on leave without pay prior to the Bill's enactment.

Subsection (3) preserves the rights, benefits and privileges of members of the uniformed services employed by the Institute. In particular, it maintains the tax-exempt status of their pay and allowances to the extent provided by law.

Section 205

This section addresses several questions relating to the status of the Institute and its employees. It specifies that the Institute shall be exempt from federal taxation and shall not be an agency or instrumentality of the United States. With respect to the Institute's employees, this section provides that they shall not be employees of the United States, and that they shall be exempt from the statutory prohibition against dealing with their former agencies in representing the Institute. It also provides that the salaries and allowances of Institute employees shall be taxable in the same way as salaries and allowances of federal employees.

- 9 -

Section 301

This section authorizes departments and agencies to provide funds to the Institute for activities under the jurisdiction of such departments and agencies. This section complements section 202, relating to the acquisition of services from the Institute by departments and agencies. Prior to the enactment of a specific appropriation for the Institute, the only available sources of funding for the Institute's operations will be existing department and agency appropriations. After the appropriation of funds to the Department of State for the Institute, there may still be occasions from time to time when the Institute will be called upon to perform some function for which funds have been appropriated to an agency. This section will apply in such cases.

Section 302

This section authorizes appropriation to the Secretary of State of funds necessary to carry out the Bill. It is contemplated that the funds necessary for the operation and support of the Institute on behalf of all departments and agencies will be consolidated into a single account.

- 10 -

Section 303

This section authorizes the Secretary of State to use the funds made available under the Bill to further the maintenance of commercial, cultural and other relations with the people on Taiwan on an unofficial basis. In particular, it authorizes the Secretary to provide these funds to the Institute for this purpose. The use of appropriated funds by the Institute will be governed by an appropriate contractual arrangement with the Secretary of State, which will contain limitations on expenses, such as limitations on the compensation of Institute employees. The Institute will be required under this arrangement to adhere generally to the limitations applicable to federal employees.

Section 304

This section requires that departments and agencies assure access by the Comptroller General to the Institutes's books and records, and that they provide the Comptroller General the opportunity to audit the Institute's operations.

Section 305

This section approves and confirms the U.S. Government actions taken since January 1, 1979 and prior to the Bill's enactment with respect to the people of Taiwan.

- 11 -

Section 306

This section authorizes the President to prescribe appropriate rules and regulations to carry out the Bill's purposes.

EXECUTIVE SECRETARIAT (0/

Routing Slip

Approved For Release 2007/03/28 : CIA-RDP83B00100R000100020003-1

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| 12 | Compt | | | | |
| 13 | D/PA | | | | |
| 14 | D/EE0 | | | | |
| 15 | D/Pers | | | | |
| 16 | AO/DCI | | | | |
| 17 | C/IPS | | | | |
| 18 | NO | | | | |
| 19 | DCI/EA/DDO | | ✓ | | |
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